

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

CA FLORIDA HOLDINGS, LLC,
Publisher of THE PALM BEACH POST,

CASE NO.:

Plaintiff,

v.

DAVE ARONBERG, as State Attorney of
Palm Beach County, Florida; SHARON R.
BOCK, as Clerk and Comptroller of Palm
Beach County, Florida,

Defendants.

COMPLAINT

CA Florida Holdings, LLC, publisher of *The Palm Beach Post*, for its Complaint against Dave Aronberg, the State Attorney for Palm Beach County, Florida, in his official capacity (“State Attorney”), and Sharon R. Bock, the Clerk of the Court for Palm Beach County, Florida, in her official capacity (“Court Clerk”), alleges as follows:

JURISDICTION

1. This is an action within the exclusive jurisdiction of the Circuit Court pursuant to Fla. Stat. Section 26.012(2)(a).

PARTIES

2. *The Palm Beach Post* is a daily community newspaper published by Plaintiff CA Florida Holdings, LLC, with offices located at 2751 S. Dixie Highway, West Palm Beach, Florida.

3. Defendant Dave Aronberg is the duly elected State Attorney for the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, pursuant to Fla. Stat. Section 27.01 and

has authority in grand jury proceedings pursuant to Fla. Stat. section 27.03. He is sued herein in his official capacity as his office is in possession of documents that are the subject of this action.

4. Defendant Sharon R. Bock is the duly elected Clerk and Comptroller of Palm Beach County, Florida. She is sued herein in her official capacity as her office is in possession of documents that are the subject of this action.

INTRODUCTION

5. In what is now widely if belatedly recognized as a colossal miscarriage of justice – which led to the further needless victimization of countless young girls and women – a wealthy, politically connected, and powerful financier was not held accountable for, nor even forced to confront, allegations of serious sex trafficking crimes. While it is clear that Jeffrey Epstein’s 2008 deal with the State of Florida was not consistent with the evidence gathered against him, what remains shrouded in mystery is how that evidence was presented – and the extent to which it was presented – to the grand jury that returned an indictment far more limited in scope than expected and deserved.

6. Through this action, *The Palm Beach Post* seeks public access to the testimony, minutes, and other evidence presented in 2006 to the Palm Beach County grand jury empaneled during the first Epstein sex abuse investigation. Typically, access to such materials is limited, for example, in order to prevent the flight of those whose indictment may be contemplated and their ability to conceal or destroy evidence; to ensure jurors’ candor in deliberations; and to protect an accused who is later exonerated. However, these factors are inapplicable here. Also, Florida law expressly authorizes the disclosure of grand jury proceedings under certain circumstances, including, as here, in the furtherance of justice. Fla. Stat. § 905.27(1)(c).

7. It can no longer credibly be maintained that continued blanket secrecy over the proceedings that led to the egregiously flawed 2006 Epstein indictment is warranted under the

law. To the contrary, transparency is required to promote public understanding of the criminal justice system and public confidence in the fair administration of justice. As detailed below, Epstein was accused of sexually abusing and trafficking dozens of women and girls in south Florida (among other locations) over a period of several years while exploiting his wealth and political connections to obstruct the administration of justice at every turn. Public disclosure of the Epstein grand jury proceedings will shed light on the extent to which those in our government entrusted with the solemn responsibility of enforcing our criminal laws equally as to all citizens fulfilled their duties in this instance. Justice will be furthered where it is either (1) demonstrated that Epstein was treated like others accused of similar heinous crimes, or (2) as appears more likely to be the case, those who chose to give Epstein favorable – “unusual,” in the words of the Town of Palm Beach Police Chief – treatment, are exposed and held accountable. From what limited information is now in the public domain, the State Attorney’s referral to the grand jury – which would be out of the ordinary for this type of case – gives rise to a strong inference of favoritism and corresponding disregard for the rights of the minor victims of Epstein’s sex trafficking. Access to the grand jury materials will allow the public to determine whether the grand jury process, and the secrecy that comes with it, was used to further justice or, instead, operated to shield Epstein and his co-conspirators from the consequences of their criminal activities. Accordingly, Fla. Stat. Section 905.27 authorizes the disclosure of Epstein’s 2006 grand jury proceedings.

8. Even in the absence of such a statutory basis, this Court is empowered to order public disclosure pursuant to its inherent authority and supervisory powers over the grand jury. Indeed, courts throughout the country in the past several decades have ordered the disclosure of high-profile grand jury proceedings pursuant to their inherent authority where the public’s

interest in those proceedings has outweighed the general need for secrecy. This is particularly so where, as here, many of the details of Epstein's criminal misdeeds have already been made available in the public domain through extensive news reporting by, among others, *The Palm Beach Post*; by the many civil suits brought against Epstein and his co-conspirators; and by the victims themselves.

9. In recognition of the sensitivity of the materials being sought, and in the interest of protecting any victims who wish to remain anonymous, *The Palm Beach Post* has no objection to copies of the testimony, minutes, and other evidence presented in 2006 to the Palm Beach County grand jury first being submitted to this Court for *in camera* review, where they may be redacted, as appropriate, to protect those who deserve such protection.

FACTUAL BACKGROUND

10. The following facts were gathered, in large part, from documents obtained by *The Palm Beach Post* through various Florida Public Records Law requests, documents unsealed or publicly available in other related judicial proceedings, and information and documents in the public record.

A. First Epstein Sex Crimes Investigation, Indictment, and Plea Agreement: 2005- 2008.

11. The investigation into Epstein's sex crimes began more than fourteen years ago, when a 14-year-old girl's stepmother reported to police in the Town of Palm Beach, Florida, that Epstein and others who worked for him arranged for her to give Epstein a "massage." Epstein required the girl to strip, exposed himself, and masturbated while touching her. The girl was paid \$300. Epstein was 52 years old at the time.

12. Following this initial report in 2005, the Town of Palm Beach Police, and later, in 2006, the FBI, investigated Epstein. Interviews under oath with five additional alleged victims

and seventeen witnesses revealed that the events described by the 14-year-old girl occurred, with disturbingly similar details, with each of the other victims.

13. Both the victim/witness interviews, as well as evidence retrieved following a search of Epstein's home, showed that some of the girls involved were under the age of 18. The police search of Epstein's residence also found two hidden cameras and, throughout the house, large numbers of nude photos of girls, including victims whom the police had not interviewed in the course of their investigation.

14. In March 2006, a State grand jury was scheduled at which all of the victims were expected to testify. The proceeding was postponed, however, due to meetings between the State Attorney's office and Epstein's prominent criminal defense lawyer and personal friend, Alan Dershowitz.

15. Another grand jury was convened in April 2006, but canceled the day before it was to begin receiving evidence.

(1) Police Chief Reiter's Letter to the State Attorney.

16. On May 1, 2006, Town of Palm Beach Police Chief Michael Reiter wrote a "personal and confidential" letter to then Palm Beach County State Attorney, Barry Krischer, stating:

I must renew my prior observation to you that I continue to find your office's treatment of [the Epstein] cases highly unusual. It is regrettable that I am forced to communicate in this manner, but my most recent telephone calls to you and those of the lead detective to your assigned attorneys have been unanswered and messages remain unreturned. After giving this much thought and consideration, ***I must urge you to examine the unusual course that your office's handling of this matter has taken and consider if good and sufficient reason exists to require your disqualification from the prosecution of these cases.*** (Emphasis supplied)

17. Chief Reiter's letter to State Attorney Krischer enclosed the Town of Palm Beach Police Department's probable cause affidavits charging Epstein and two of his assistants with

multiple counts of unlawful sex acts with a minor and one count of sexual abuse, and requested that either an arrest warrant be issued for Epstein or the State Attorney directly initiate the charges against him, which would be public.

(2) The July 2006 State Grand Jury Presentation.

18. Instead, State Attorney Krischer elected to refer the case to a grand jury, which is mandatory for capital cases but rarely used for all other crimes. According to an official spokesperson, this was the first time that a sex crimes case was presented to a grand jury in Palm Beach County.

19. In July 2006, after State Attorney Krischer presented testimony and evidence from *one victim*, the grand jury returned an indictment on a sole count of solicitation of prostitution. There is no mention in the indictment of the victim being a minor.

20. On information and belief, a second of Epstein's victims was supposed to testify before the grand jury, but was unable to attend because of a school exam.

21. No reasonable explanation has been provided as to why the numerous other known victims were not presented as witnesses and crime victims to the grand jury convened in July 2006. Nor has any reasonable explanation been provided as to why State Attorney Krischer, who was initially eager to investigate and prosecute Epstein for his crimes, over time lost the desire to do so.

22. On information and belief, during the grand jury appearance of the single victim who testified, the State Attorney presented evidence that vilified the victim and attacked her credibility, including soliciting testimony regarding underage drinking and questionable personal behavior that was unrelated to the charges against Epstein. Further upon information and belief, this information was initially brought to the attention of the State Attorney's office by Epstein's defense counsel.

(3) The FBI's Investigation and Epstein's Non-Prosecution Agreement With Federal Authorities.

23. On information and belief, following the deficient July 2006 indictment, and with Chief Reiter's encouragement, the FBI began its own investigation of Epstein.

24. Records unsealed in 2015 revealed that the FBI compiled reports on "34 confirmed minors" that were victims of Epstein's sexual predations. Based on evidence gathered by the FBI, a 53-page indictment was prepared by the U.S. Attorney's Office in June 2007. However, at the request of Epstein's lawyers, the indictment was never presented to a federal grand jury.

25. Instead, then U.S. Attorney for the Southern District of Florida, Alexander Acosta, negotiated a plea deal with Epstein's team of lawyers to grant immunity to Epstein (along with four named co-conspirators and any unnamed potential co-conspirators) from all federal criminal charges.

26. Throughout the remainder of 2007 and through the first half of 2008, Epstein's lawyers and the U.S. Attorney continued negotiating the plea arrangement. Upon information and belief, Epstein's lawyers insisted that (1) the victims not be notified, (2) the deal be kept confidential and under seal, and (3) all grand jury subpoenas (including one that had already been issued for Epstein's computers) be withdrawn.

27. On June 30, 2008, Epstein pled guilty to State charges: one count of solicitation of prostitution and one count of solicitation of prostitution with a minor under the age of 18. He was sentenced to 18 months in jail, followed by a year of community control or house arrest, and was adjudicated as a convicted sex offender required to register twice a year in Florida.

28. The plea deal, called a non-prosecution agreement ("NPA"), allowed Epstein to receive immunity from federal sex-trafficking charges that could have sent him to prison for life.

On information and belief, based on public records, former State Attorney Krischer communicated with then U.S. Attorney Acosta concerning the NPA's negotiation with Epstein's lawyers.

29. Indeed, Epstein was not incarcerated in a Florida prison for the State crimes for which he was convicted. Instead, he was placed in a private wing of the Palm Beach County Stockade, where, after 3 1/2 months, he was allowed to leave the jail on "work release" for up to 12 hours a day, 6 days a week. His private driver provided his transportation to and from "work."

30. Epstein was released five months early.

31. Upon information and belief, Epstein violated the terms of his probation, but was not prosecuted.

(4) The Crime Victims' Rights Act Litigation.

32. Epstein's victims only learned after the fact about his plea in State court and filed an emergency petition to force federal prosecutors to comply with the Crime Victims' Rights Act (18 U.S.C. § 3771, "CVRA"), which mandates certain rights for crime victims, including the right to be informed about plea agreements and the right to appear at sentencing. U.S. District Judge Kenneth A. Marra recently ruled that federal prosecutors violated the CVRA by failing to notify Epstein's victims before allowing him to plead guilty to only the two State offenses.

33. The prosecution's failure to keep the victims apprised, among other things, also contravenes the Florida Constitution, Article 1, § 16(b) and Fla. Stat. § 960.001.

34. Following publicity exposing the extraordinary leniency of the plea deal, dozens of civil suits were brought against Epstein, most of which Epstein's lawyers settled out-of-court.

35. In 2010, Epstein was registered as a "level three" (*i.e.*, high risk of repeat offense) sex offender in New York, a lifelong designation. In 2011, the New York County District Attorney's office unsuccessfully sought to lower his registration to low-risk "level one."

36. Upon information and belief, during the course of the Town of Palm Beach and FBI investigations, Epstein retained private investigators to follow, harass, and photograph his victims and their families, as well as Chief Reiter and the Town of Palm Beach detective who investigated the case against Epstein.

37. Upon information and belief, Epstein's victims were threatened against cooperating with law enforcement and told that they would be compensated only if they did not cooperate with law enforcement.

B. Second Epstein Sex Crimes Investigation, Indictment, Suicide: 2019.

38. On July 6, 2019, Epstein was arrested on federal sex trafficking charges.

39. Upon information and belief, the United States government's investigation of new allegations and charges stemmed, in part, from continued press investigations into and reporting on the mishandling of the 2006 charges and the civil suits that followed.

40. In a July 8, 2019, letter to the federal district court by the U.S. Attorney for the Southern District of New York, Epstein was described as "a serial sexual predator who preyed on dozens of minor girls over a period of years." The letter emphasized that "the Government has real concerns – grounded in past experience with this defendant – that if allowed to remain out on bail, the defendant could attempt to pressure and intimidate witnesses and potential witnesses in this case, including victims and their families, and otherwise attempt to obstruct justice." It also described the results of the FBI's search of Epstein's Manhattan townhouse: evidence of sex trafficking in the form of "hundreds – and perhaps thousands – of sexually suggestive photographs of fully- or partially-nude females," including underage females. In a locked safe, compact discs were found with handwritten labels including the descriptions: "Young [Name] + [Name]," "Misc nudes 1," and "Girl pics nude."

41. On July 8, 2019, prosecutors with the Public Corruption Unit of the U.S. Attorney's office for the Southern District of New York charged Epstein with sex trafficking and conspiracy to traffic minors for sex. The grand jury indictment alleges that "dozens" of underage girls were brought into Epstein's mansions for sexual encounters. A few days later, owing to public outcry over the NPA with Epstein entered into by the U.S. Attorney for the Southern District of Florida, Alexander Acosta, who by then was serving as U.S. Secretary of Labor in the Trump administration, resigned from office.

42. Epstein was denied bail and was placed into pretrial detention at the federal Metropolitan Correction Center in lower Manhattan.

43. On August 10, 2019, Epstein was found dead in his cell at the Metropolitan Correctional Center. His cause of death was determined to be suicide.

C. The August 27, 2019, SDNY Hearing: Epstein's Victims Speak.

44. On account of his death, prosecutors sought to dismiss the indictment against Epstein, while maintaining that they would continue to investigate his co-conspirators.

45. United States Senior District Judge Richard M. Berman ordered a hearing on August 27, 2019, on the prosecutors' decision to dismiss the indictment and allowed victims to speak at the hearing.

46. In the course of the hearing, more than two dozen victims delivered their personal stories of pain, frustration, and sexual abuse at the hands of Epstein. Several victims spoke of violent rape by Epstein. Many more victims were present in the courtroom but did not testify.

47. While some questioned the reasoning behind the court's decision to give the victims voice after Epstein's death, District Judge Berman noted that "a public hearing is [the] preferred vehicle of resolution," emphasizing that "public hearings are exactly what judges do. Hearings promote transparency and they provide the court with insights and information which

the court may not otherwise be aware of.” Indeed, even Epstein’s defense lawyer noted at the hearing that the court “is the institution that most people have confidence in, in these very troubled times.”

48. At the August 27th hearing, the girls, now women, spoke about their “exploitation and coercion,” and to the fact that many of them “were in very vulnerable situations and in extreme poverty, circumstances where [they] didn’t have anyone on [their] side, to speak on [their] behalf...” One victim lamented that “as a victim, [she] never got to see what the agreement was or why the special treatment got approved” in the Florida case years earlier. Another noted how “completely different” the investigators leading to the 2019 federal indictment were from the prosecutors in the Florida case, both in their treatment of her and their investigation of her victimization by Epstein.

49. A former federal judge in attendance at the August 27th hearing emphasized that “transparency is one of the overriding objectives in our criminal justice system.”

50. Nearly all of the victims expressed the conviction that the secrecy that shielded Epstein has caused them “irreparable harm” and that an opportunity to address his criminal wrongdoings, and those of the individuals who enabled his sexual racketeering, would allow for at least some measure of justice to be served after his death. Indeed, one victim stated: “Any efforts made to protect Epstein’s name and legacy send a message to the victims that he wins and that he is untouchable.” Another victim expressed fear that this is a world “where there are predators in power, a world where people can avoid justice if their pockets run deep enough.” In short, the “unusual” treatment Epstein received in Florida in 2006 based on his wealth, social status, and connections severely eroded the public’s faith in the integrity and impartiality of the criminal justice system.

D. The Palm Beach Post's Standing and the Public Interest.

51. Plaintiff, *The Palm Beach Post*, is a community newspaper serving readers in Palm Beach County and the Treasure Coast vicinity.

52. *The Palm Beach Post* has been a Pulitzer Prize winner and nominated as a finalist three other times.

53. Beginning in 2004, *The Palm Beach Post* has extensively investigated and reported on the allegations against, the law enforcement investigation of, and the crimes committed by, Epstein and his co-conspirators. The Newspaper's reportage has included publication of the following articles:

- "The Man Who Had Everything: Jeffrey Epstein Craved Big Homes, Elite Friends and, Investigators Say, Underage Girls," published on August 14, 2006, reporting that: Haley Robson, a local community college student, admitted in a sworn statement to police that "she had taken at least six girls to visit Epstein, all between the ages of 14 and 16;" Palm Beach Police "interviewed five alleged victims and 17 witnesses;" "Dershowitz, the Harvard law professor, traveled to West Palm Beach with information about the girls," including social media discussions about "their use of alcohol and marijuana;" after meeting with Epstein's legal team, "prosecutors postponed their decision to take the case to a grand jury;" Palm Beach Police subsequently "received complaints that two of the victims or their families had been harassed or threatened;" "relations between police and prosecutors were fraying" as the investigation continued; and "one girl who was subpoenaed – the one who said she had sexual intercourse with Epstein – never showed up" to testify before the grand jury.
- "Trump Snags Gosman Estate for \$41 Million" published on November 16, 2004, reporting on the bidding war between Donald Trump and Jeffrey Epstein for the purchase of a "43,000-square-foot, seven-bedroom estate on 6 oceanfront acres along the storied 'Raider's Row' " in Palm Beach.
- "Indictment: Billionaire Solicited 3 Times" published on July 25, 2006, reporting that "Billionaire money manager and Palm Beach part-time resident Jeffrey Epstein solicited or procured prostitutes three or more times between Aug. 1 and Oct. 31 of last year, according to an indictment charging him with felony solicitation of prostitution." The article further reported that "Epstein's case is unusual in that suspected prostitution johns are usually charged with a misdemeanor, and even a felony charge is typically made in a criminal information – an alternative to an indictment charging a person with the commission of a crime."

- “After Long Probe, Billionaire Faces Solicitation Charge” published on July 26, 2006, reporting that “Palm Beach police thought there was probable cause to charge Epstein with unlawful sex acts with a minor and lewd and lascivious molestation.” The article further reported that “Police Chief Michael Reiter was so angry with State Attorney Barry Krischer’s handling of the case that he wrote a memo suggesting the county’s top prosecutor disqualify himself,” and identified a 20-year-old on-the-record female source who said “she gave Epstein a massage in the nude, then brought him six girls, ages 14 to 16, for massage and sex-tinged sessions at his home.”
- “Police Say Lawyer Tried to Discredit Teenage Girls” published on July 29, 2006, reporting that “[f]amed Harvard law professor Alan Dershowitz met with the Palm Beach County State Attorney’s Office and provided damaging information about teenage girls who say they gave his client, Palm Beach billionaire Jeffrey Epstein, sexually charged massages” and that “[t]he state attorney’s office said it presented the Epstein case to a county grand jury this month rather than directly charging Epstein because of concerns about the girls’ credibility.”
- “Expert: Ignorance of Age Isn’t Defense In Sex Cases” published on August 5, 2006, reporting that “[r]ather than file charges, the state attorney’s office presented the case to a county grand jury” which “indicted Epstein last week on a single, less serious charge of felony solicitation of prostitution,” and that “[t]he case raised eyebrows because the state attorney’s office rarely, if ever, kicks such charges to a grand jury.”
- “Epstein Camp Calls Female Accusers Liars” published on August 8, 2006, reporting that “[a] state attorney’s spokesman would say only that the office refers cases to the grand jury when there are issues with the viability of the evidence or witnesses’ credibility.”
- “Palm Beach Chief Focus of Fire In Epstein Case” published on August 14, 2006, reporting that Chief Reiter “pressed for Epstein to be charged with the more serious crimes of sexual activity with minors” and “slammed State Attorney Barry Krischer in blunt language seldom used by one law enforcement official with another because of what he perceived as that office’s mishandling of the case.”
- “Delays In Epstein Case Unusual, Lawyers Say” published on March 13, 2007, reporting that “[n]early eight months after Palm Beach tycoon Jeffrey Epstein was charged with felony solicitation of prostitution, there has been no discernible progress in his case.”
- “Woman Sues Billionaire Investor, Says They Had Sex When She Was 16” published on October 18, 2007, reporting on a lawsuit brought in New York State court against Epstein “by a young woman who says he had sex with her when she was 16 and had sought his help becoming a model.”
- “Palm Beacher Pleads In Sex Case” published on July 1, 2008, reporting that “Epstein, 55, pleaded guilty . . . to felony solicitation of prostitution and procuring a person under the age of 18 for prostitution,” resulting in “a lifelong obligation to

register as a sex offender,” and that “[a]s part of the plea deal, federal investigators agreed to drop their investigation of Epstein, which they had taken to a grand jury.”

- “Jeffrey Epstein: Scientist, Stuntman, ‘Sex Slave’ Visit Jailed Tycoon” published on August 13, 2008, reporting that “[d]uring his first month of confinement” Epstein was visited by Sarah Kellen, who allegedly escorted victims “upon their arrival at his Palm Beach waterfront home to an upstairs room, where she prepared the massage table and provided the oils for their encounters” with Epstein, and by Nadia Marcinkova, “a young woman whom Epstein purportedly described as his Yugoslavian sex slave.”
- “Billionaire Sex Offender Leaves Jail Six Days a Week For Work” published on July 1, 2008, reporting that Epstein “is allowed to leave the Palm Beach County Stockade six days a week on a work-release program.”
- “Women Want Epstein Sex Plea Deal Unsealed” published on June 10, 2009, reporting that attorneys for women suing Epstein in various courts “want his [non-prosecution] agreement [NPA] with federal prosecutors unsealed” and were moving to unseal the agreement in Circuit Court of the Fifteenth Judicial Circuit, and that “Epstein now faces at least a dozen civil lawsuits in federal and state courts filed by young women who said they had sex with him and now are seeking damages.” On that date, *The Palm Beach Post* moved to intervene in the matter for the purpose of obtaining public access to the NPA, which was ordered disclosed by this Court on June 25, 2009.
- “Epstein’s Secret Pact With Feds Reveals ‘Highly Unusual’ Terms” published on September 19, 2009, reporting that, owing to Epstein’s non-prosecution agreement, “federal prosecutors backed down and agreed to recall grand jury subpoenas if Epstein pleaded guilty to prostitution-related felonies in state court” and “also agreed not to charge any of Epstein’s possible co-conspirators: Sarah Kellen, Adriana Ross, Lesley Groff and Nadia Marcinkova.” The article further reported that, according to an attorney representing three of Epstein’s victims, “none of the 30 to 40 wom[e]n identified as victims in the federal investigation” were informed ahead of time about the NPA.
- “Judge Rules Epstein Attorneys Can Subpoena Abortion Records” published on January 27, 2010, reporting that “a judge . . . gave lawyers representing multi-millionaire sex offender Jeffrey Epstein the right to subpoena abortion records from women who are seeking millions in damages from the part-time Palm Beach resident.”
- “Epstein Journal’s Findings Could Resurrect Abuse Case” published on March 20, 2010, reporting that “[a] purloined journal that is said to contain the names of ‘hundreds’ of victims of convicted sex offender Jeffrey Epstein could be used to reopen the investigation into the multi-millionaire’s appetite for teenage girls.”

- “Epstein Paid Three Women \$5.5 Million to End Underage Sex Lawsuits” published on October 4, 2017, reporting that, according to court documents, Epstein “shelled out \$5.5 million to settle lawsuits with three of more than two dozen teens who sued him.”
- “Judge Rules Feds’ Agreement With Jeffrey Epstein Pact Violated Teen Victims’ Rights” published on February 22, 2019, reporting on a ruling by U.S. District Judge Kenneth Marra that “Federal prosecutors violated the rights of Jeffrey Epstein’s teenage victims [under the Crime Victims’ Rights Act] by failing to reveal they had dropped plans to prosecute the billionaire on dozens of federal charges in connection with the girls’ claims that he paid them for sex at his Palm Beach mansion.”
- “Epstein Indicted On Sex Charges/Part-Time Palm Beacher Pleads Not Guilty to Sex Trafficking, Conspiracy Charges In Federal Court In Manhattan” published on July 9, 2019, reporting on Epstein’s appearance in U.S. District Court for the Southern District of New York in which he “pleaded not guilty to charges accusing him of creating a vast network of girls as young as 14 that he exploited for his sexual pleasure at his homes in Palm Beach and Manhattan.”

A true and correct copy of the above news articles, in either the computerized format in which they are maintained in *The Palm Beach Post*’s electronic archives or the news print edition in which originally published, is annexed hereto as **Exhibit 1**.

54. The press has a constitutional right of access to criminal proceedings, *see, e.g., Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 573 (1980), including pre-trial criminal proceedings. *Newman v. Graddick*, 696 F.2d 796 (11th Cir. 1983). Indeed, “the integrity of the judicial process, which public scrutiny is supposed to safeguard, is just as much at issue in proceedings of this kind [pre- and post-trial] as at trial.” *Id.* at 801; *see also Miami Herald Publ. Co. v. Lewis*, 426 So. 2d 1, 6–7 (Fla. 1982) (identifying the news media as a “public surrogate” in matters concerning the closure of judicial proceedings). The press also has a First Amendment interest in receiving information from willing speakers. *See Va. Pharmacy Bd. v. Va. Consumer Council*, 425 U.S. 748, 756–57 (1976) (“Where a speaker exists . . . the protection afforded [by the First Amendment] is to the communication, to its source and to its recipients both.”); *Pittman v. Cole*, 267 F.3d 1269, 1283 n.12 (11th Cir. 2001) (“The Supreme Court has recognized that the

First Amendment offers protection to both speakers and those wishing to receive speech.”); *see also Stephens v. Cty. of Albemarle, Va.*, 524 F.3d 485, 492 (4th Cir. 2008) (providing that a plaintiff has “standing to assert a right to receive speech” by “show[ing] that there exists a speaker willing to convey the information to her”).

55. Because of the unique role performed by the press as a “public surrogate” (*Lewis*, 426 So. 2d at 6–7) in protecting the right of access and its interest in reporting information about criminal proceedings, news organizations “presumptively have a right to access judicial records,” *Comm’r, Ala. Dep’t of Corr. v. Advance Local Media, LLC*, 918 F.3d 1161, 1166 (11th Cir. 2019), and “standing to question the validity of an order restricting publicity because its ability to gather news is directly impaired or curtailed.” *Lewis*, 426 So. 2d at 4; *see also Carlson v. United States*, 837 F.3d 753, 757–58 (7th Cir. 2016) (“[a]s a member of the public, [the Reporters Committee] has standing to assert [its] claim” to grand jury materials because such materials are “public records to which the public may seek access, even if that effort is ultimately unsuccessful”).

56. Here, the continued denial of access to information *The Palm Beach Post* seeks on behalf of its journalists and the public it serves “unquestionably constitutes irreparable injury.” *Gainesville Woman Care, LLC v. State of Florida*, 210 So. 3d 1243, 1263 (Fla. 2017); *see also Zerilli v. Smith*, 656 F.2d 705, 711 (D.C. Cir. 1981) (noting that “the press’ function as a vital source of information is weakened whenever the ability of journalists to gather information is impaired,” as it is by Attorney General’s refusal to disclose unredacted report and underlying grand jury materials).

E. The Court’s Supervision of the Grand Jury Process and Its Authority to Order Public Disclosure of the Epstein Evidence.

57. The Florida Supreme Court has noted that “in states such as Florida, where the grand jury is preserved, it is an important appendage of the court which impanels it. At the same time it should not be forgotten that the judge of that court is equally important and he is generally charged with the supervision of the grand jury’s activities...It is, therefore, of vital importance to maintain the dignity and the integrity of both the grand jury and the presiding judge.” *State v. Clemons*, 150 So. 2d 231, 233-34 (Fla. 1963).

58. Chapter 905 of the Florida Statutes governs the empanelment and conduct of Florida grand juries. The court gives the grand jury its initial charge and advises the grand jury about its legal duties. Fla. Stat. § 905.18.

59. Florida Stat. Section 905.27(1) provides that “the testimony of a witness examined before the grand jury . . . or other evidence received by it” may be disclosed “when required by a court . . . for the purpose of: (a) Ascertaining whether it is consistent with the testimony given by the witness before the court; (b) Determining whether the witness is guilty of perjury; or (c) Furthering justice.” Fla. Stat. § 905.27(1)(a)-(c).

60. Further, disclosure is appropriate pursuant to this Court’s inherent authority over grand jury proceedings because of the exceptional public interest in this case and the compelling circumstances supporting transparency. *Carlson v. United States*, 837 F.3d at 766 (“a district court has the inherent power to disclose [grand jury] materials in exceptional circumstances and . . . historic importance can be a sufficient reason when there is little countervailing need for secrecy”).

COUNT I

(Florida Stat. Section 905.27)

61. Based on information learned by *The Palm Beach Post* through its Florida Public Records Law requests, law enforcement sources with direct knowledge of the grand jury evidence and proceedings, judicial documents obtained from independent but related court proceedings, and documents otherwise available in the public record, the State Attorney for Palm Beach County presented truncated evidence of Epstein's criminal wrongdoing to the 2006 grand jury in a manner that precluded his indictment for the serious crimes he committed, including sex trafficking and sexual assault.

62. Pursuant to Florida Stat. Section 905.27, in order to further justice for Epstein's victims and the public, and to provide public disclosure to illuminate whether Epstein received unreasonably lenient treatment based on the available evidence, *The Palm Beach Post* requests immediate public access to the testimony, minutes, and other evidence presented in 2006 to the Palm Beach County grand jury. In a case of this magnitude and importance, where the accused is dead and so many of his crimes, as well as the identities and crimes of his co-conspirators, and the identities of the victims have already been exposed, the need for grand jury secrecy is no more. *See United States v. Socony-Vacuum Oil Co.*, 310 U.S. 150, 234 (1940) ("[A]fter the grand jury's functions are ended, disclosure is wholly proper where the ends of justice require it.").

WHEREFORE, *The Palm Beach Post* respectfully requests that this Court, pursuant to Fla. Stat. Section 905.27(1) and the Court's inherent authority, order the State Attorney and the Clerk of the Court to file with this Court copies of the testimony, minutes, and other evidence presented in 2006 to the Palm Beach County grand jury during the first Epstein sex abuse

investigation so that, following an *in camera* inspection, it can be made available to *The Palm Beach Post* and the public on an expedited basis, and grant any other and further equitable or legal relief the Court deems just and proper.

Dated: November 14, 2019

Respectfully submitted,

GREENBERG TRAURIG, P.A.

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